

REMARKS

Claims 1 through 24 are pending in this Application, of which claims 5, 16 and 17 stand withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). Accordingly, claims 1 through 4, 7 through 15 and 18 through 24 are active.

Claims 1 and 13 have been amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure. Applicants submit that the present Amendment does not generate any new matter issue.

Clarification of Record

The Office Action dated February 7, 2006 does not reflect the Examiner's acknowledgement of receipt of the Information Disclosure Statement (IDS) submitted on April 9, 2004. However, during a telephone communication on February 14, 2006, the Examiner did confirm receipt of such IDS.

Applicants now solicit the Examiner to clarify the written record by acknowledging receipt of the IDS and providing an appropriately initialed copy of Form PTO-1449 indicating consideration of the cited prior art.

Claims 1 through 4, 6, 7, 9 through 15, 18, 19 and 21 through 24 were rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Ozawa et al.

In the statement of the rejection the Examiner referred to Fig. 4B, asserting the disclosure of a display device corresponding to that claimed, including transmissive and reflective regions, a first region having a convex insulating film, identifying element 30 formed in a reflection

region 31, orientation film 20, and a second region in which the convex insulating film is not formed is continuously formed along adjacent pixels, identifying region 32. This rejection is traversed.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 USPQ2d 1801 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002). There is a fundamental difference between the claimed display devices and the device disclosed by Ozawa et al. that scotches the factual determination that Ozawa et al. disclose a display device identically corresponding to that claimed.

Specifically, in accordance with the invention as defined in independent claims 1 and 13, **the transmissive region is continuously formed among adjacent pixels.** No such display device is disclosed or suggested by Ozawa et al. Indeed, advertizing to Figs. 4A and 4B of Ozawa et al., it should be apparent that pixel regions 3 are each in a state surrounded by the light shielding films 90 or light shielding lines in a plan view, as disclosed at column 15 of Ozawa et al., lines 18 through 20. **In other words, in Figs. 4A and 4B of Ozawa et al., each pixel is surrounded by light shielding films 90.**

Applicants would stress that in Figs. 4A and 4B of Ozawa et al., **each pixel** includes a reflective region and a transmissive region by forming openings 40 and 61 only inside each pixel. As one having ordinary skill in the art would have recognized, Figs. 4A and 4B of Ozawa et al. make it clear that openings 40 and 61 correspond to the transmissive region, and the transmissive regions are **not** continuously formed along adjacent pixels. The bottom line is there

are no embodiments in Ozawa et al. wherein the opening corresponding to the transmissive region is continuously formed among adjacent pixels.

The above argued **fundamental difference** between the claimed display and the displays disclosed by Ozawa et al. undermines the factual determination that Ozawa et al. disclose a display identically corresponding to those claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claims 1 through 4, 6, 7, 9 through 15, 18, 19 and 21 through 24 under 35 U.S.C. § 102 for lack of novelty as evidenced by Ozawa et al. is not factually viable and, hence, solicit withdrawal thereof.

Claims 8 and 20 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Ozawa et al. in view of Fujimori et al.

This rejection is traversed. Specifically, claim 8 depends from independent claim 1 and claim 20 depends from independent claim 13. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1 and 13 under 35 U.S.C. § 102 for lack of novelty as evidenced by Ozawa et al. The secondary reference to Fujimori et al. does not cure the previously argued deficiencies of Ozawa et al. Accordingly, even if the applied references are combined as suggested by the Examiner, and Applicants do not agree that the requisite fact-based motivation has been established, the claimed inventions would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

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Applicants, therefore, submit that the imposed rejection of claims 8 and 20 under 35 U.S.C § 103 for obviousness predicated upon Ozawa et al. in view of Fujimori et al. is not factually or legally viable and, hence, solicit withdrawal thereof.

Based upon the foregoing, it should be apparent that the imposed rejections have been overcome, and that all active claims are in condition for immediate allowance. Favorable consideration is, therefore solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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